



California Fair Political Practices Commission

April 28, 1986

Albert E. Polonsky, City Attorney
City of Daly City
333 90th Street
Daly City, CA 94015-1895

Re: Your Request for Advice
Our File No. A-86-123

Dear Mr. Polonsky:

This is in response to your April 14, 1986 letter requesting advice under the Political Reform Act.^{1/} In that letter you presented questions concerning the City of Daly City's acquisition of the North San Mateo County Sanitation District. As I understand it, the sanitation district is a subsidiary district of the city and is not located solely within the city's boundaries.

Your first question concerns the district's board of directors, general manager and district counsel who are comprised of the city council, city manager and city attorney, respectively.

The public officials file statements of economic interests in their latter capacities disclosing interests located within the City of Daly City. The jurisdiction of the sanitation district however is an area greater than the jurisdiction of the city. The statements filed by the city officials would not cover interests which may be affected by decisions made in their capacity as officials of the sanitation district.

A conflict of interest code should then be developed for the directors and employees of the San Mateo County Sanitation District. The types of interests to be disclosed would be limited to the interests which may be affected by decisions

^{1/}Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

Albert E. Polonsky
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made by the district. I have enclosed a copy of a conflict of interest code for another sanitation district which may be of some assistance to you in developing the code.

You further indicated that the previous general manager for the district is now the public works director for the city. In that capacity he participates in decisions concerning the operation of the district. This position, too, should be included in the code for the sanitation district, as well as the code for the City of Daly City.

The district periodically hires consultants to prepare reports and make recommendations to the board in connection with the operation of the sanitation plant. The Act defines "designated employee" and "public official" to include any consultant who makes or participates in the agency's decisions.

A "consultant" within the meaning of the Act, includes "any natural person who provides, under contract, information, recommendation or counsel to a state or local government agency..." 2 Cal. Adm. Code Section 18702(a)(2). This term does not include, however, a person who:

(A) Conducts research and arrives at conclusions with respect to his or her rendition of information, advice, recommendation or counsel independent of the control and direction of the agency or of any agency official, other than normal contract monitoring; and

(B) Possesses no authority with respect to any agency decision beyond the rendition of information, advice, recommendation or counsel.

2 Cal. Adm. Code Section
18700(a)(2)(A) and (B)

When an engineer is hired under contract to provide general advice and assistance to an agency on an on-going basis, it is our view that the engineer is a consultant within the meaning of the Act.

Whether disclosure should be required pursuant to the district's code depends on whether any private financial interests may be affected by the decisions the engineer makes. You should determine what disclosure is appropriate based on the types of private financial interests which could be affected by those decisions.

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The Commission has prepared model language for use in codes which generally states that the director of the agency shall review the duties of the consultant and make a determination as to what the appropriate disclosure requirements should be for that particular consultant. I have enclosed a copy of that model language.

I hope this answers your questions. If I can be of further assistance, please feel free to call me at (916) 322-5901.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jeanette E. Turvill".

Jeanette E. Turvill
Legal Assistant
Legal Division

JET:sm
Enclosures



CITY OF DALY CITY

333-90TH STREET

DALY CITY, CA 94015-1895

AIR 16 9 47 AM '86

PHONE: (415) 991-8000

April 14, 1986

State of California Fair Political
Practices Commission
P.O. Box 807
Sacramento, Ca. 95804

Attention: Legal Department

Gentlemen:

Re: Statement of Economic Interest

The City of Daly City has acquired the North San Mateo County Sanitation District (County Sanitation District), as a Subsidiary District. All of the employees of the District have become the employees of the City of Daly City, and the City of Daly City by contract performs services for the Sanitation District.

I wish to reiterate that the District became a Subsidiary District of the City and there was no merger because the boundaries of the District are not coterminous with those of the City. The District, still existing, is governed by a Board of Directors who are the members of the City Council of the City of Daly City.

There has also been appointed a General Manager, who is City Manager of the City of Daly City, and receives the sum of \$150 per month for his position as General Manager. He is also the Secretary for the District.

I, the City Attorney of the City of Daly City, has been appointed as District Counsel and I too receive a sum of \$150 per month, as District Counsel.

I would like answers to the following questions, if possible:

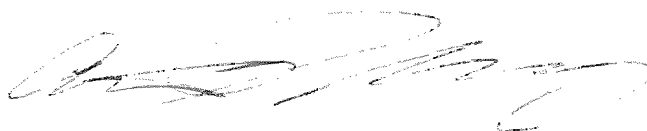
1. Do the members of the City Council who file a Statement of Economic Interest, also have to file Statement of Economic Interest as members of the Board and if so, when and where and with whom.
2. Does the General Manager, who files as City Manager, also have to file a Statement of Economic Interest, and if so, when and where and with whom.



3. Does the District Counsel, who files as City Attorney, also have to file a Statement of Economic Interest, and if so, when and where and with whom.
4. The City of Daly City's Director of Public Works was the former General Manager of the Sanitation District. He now has to file a Statement of Economic Interest as Director of Public Works. The question I have is, inasmuch as he, in effect supplies personnel in making decisions concerning the operation of the District, is it sufficient that he files as Director of Public Works to the City of Daly City his Statement of Economic Interest, or does he have to file a separate and additional Statement of Economic Interest.
5. At various times the District hires Consultants who give reports and make recommendations to the Board in connection with the operation of the Sanitation Plant and appurtenances, or making suggestions concerning increasing capacity and financing of same. Would the Consultant have to file a Statement of Economic Interest and, if so, when and where and with whom.

If you have any questions concerning the statement set forth in this letter or desire further clarification, please feel free to contact me at the above telephone number.

Yours very truly,



ALBERT E. POLONSKY,
City Attorney

AEP/djg



California Fair Political Practices Commission

April 17, 1986

Albert E. Polonsky
City Attorney
333 - 90th Street
Daly City, CA 94015-1895

Re: 86-123

Dear Mr. Polonsky:

Your letter requesting advice under the Political Reform Act has been received by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact me directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or unless more information is needed to answer your request, you should expect a response within 21 working days.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Jeanette E. Turvill'.

Jeanette E. Turvill
Legal Assistant
Legal Division

JET:plh